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Testimony of Ralph J. Monaco, President  
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House Bill 6622, An Act Concerning the Burden Of Proof in Medical Malpractice Cases and the  
Standard of Care Related To Emergency Medical Care and Treatment  
Judiciary Committee  
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Senator Coleman, Representative Fox, and members of the Judiciary Committee thank you for the opportunity to appear and comment on **House Bill 6622, An Act Concerning the Burden Of Proof in Medical Malpractice Cases and the Standard of Care Related To Emergency Medical Care and Treatment**. My name is Ralph J. Monaco and I am the President of the Connecticut Bar Association, the preeminent voluntary association of attorneys in Connecticut with over 9,000 members who practice in every area of the law. The CBA opposes the bill, which would fundamentally change the standard of proof in tort cases for one group - health care providers. The standard of proof in most other tort actions against professional and non-professionals would remain the same, requiring proof by a preponderance of the evidence. It is essentially unfair to look to a person's profession to determine the standard of proof that must be met. A potential defendant's education, stature in society, or wealth should not entitle that person to greater protection by the law for their negligent or reckless conduct. The higher standard of proof required by this bill is unnecessary and should be rejected by the committee.

The proposal to change the standard of proof in medical malpractice cases is not needed because the present statutory scheme for such cases affords adequate protection to health care providers to prevent meritless lawsuits from being filed. For example, General Statute Section 52-190a requires that a person attach a certificate of good faith signed by their lawyer and a letter of merit signed by a similar health care provider before a lawsuit may be filed against a health care provider. This means that a lawyer must consult with a similar health care provider who documents in writing that there was negligence in the treatment of the plaintiff.

Moreover, it is widely recognized that medical negligence cases are expensive to prosecute. Currently many cases are not filed because the damages are not high enough to justify the large expenditure that these cases require. A higher standard of proof will further discourage meritorious cases from being filed. Limiting access to justice for victims of medical negligence is one of the CBA's greatest concerns. The proposed alteration in tort law proposed in this bill is unnecessary and would unfairly impede the rights of injured people to obtain a fair evaluation of their claims in a court of law. For these reasons, the CBA **opposes** House Bill 6622 and urges the Judiciary Committee to **not act favorably on the bill**.

I would be happy to answer any questions you may have.